

**ONEIDA COUNTY PLANNING & ZONING**  
**MARCH 1, 2006**  
**1:00 P.M. –COMMITTEE ROOM #2**  
**ONEIDA COUNTY COURTHOUSE**  
**RHINELANDER, WI 54501**

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Members present: Chairman Gary Baier  
Frank Greb  
Patricia Peters  
Ted Cushing  
Scott Holewinski

Department staff present: Karl Jennrich, Zoning Director  
Nadine Wilson, Land Use Specialist  
Kurt Bloss, Land Use Specialist  
Mary Bartelt, Typist III

Other County Staff: Brian Desmond, Assistant Corporation Counsel

See Attached Guest List:

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Call to order.

Chairman Baier called the meeting to order at 1:00 P.M., in accordance with the Wisconsin Open Meeting Law.

Discussion/decision to approve the agenda.

**MOTION (Frank Greb/Patricia Peters) to approve the March 1, 2006 agenda. With all members present voting “aye”, motion carries.**

Discussion/decision involving a preliminary 2-lot subdivision for Ronald Millard, owner, on property described as part of Gov’t Lot 2, Section 32, T39N, R10E, in the Town of Sugar Camp, PIN# SU 1404-2.

Nadine Wilson, Land Use Specialist, presented the preliminary 2-lot subdivision for Ronald Millard to the committee. Ms. Wilson read the general information to the committee. This property is zoned General Use and Long Lake is fifty-six acres on the WDNR Wisconsin Lakes – open water inventory. Therefore, the lake is a Class 2 waterway, which requires twenty thousand square feet with a hundred feet of riparian frontage width. The concern is that three of the cabins on Lot 2. Based on the density that is currently at the property, the owner would only be allowed to have one unit on Lot 2. Mr. Millard is aware of that and converted cabins 2 and 3 to a 4 bedroom house by taking out the wall. Cabins 1 and 4 will be taken down. Removal of Cabins 1 and 4 would be upon sale or within a years’ time and Mr. Millard was OK with that. The house on Lot 1 has a 1993 sanitary system on it. The duplex and the small resort on Lot 2, has a mound system (1973) on it. Mr. Millard will have a boring done on the existing system, which is the P & Z policy under Chapter 13. Ms. Wilson gave Mr. Millard until June 1, 2006 to have the boring done. The sanitary system has been pumped out every other year and there are no failing problems. A town letter was sent to the Town of Sugar Camp on February 8, 2006 and a response was received back from the Town of Sugar Camp on February 21, 2006 with one concern: pending the park and dedication fee to the Town of Sugar Camp prior to recording the CSM in the Register of Deeds Office.

Staff recommends approval with the following conditions:

1. Remove Cabins 1 and 4 within one year or upon sale, whichever is first.
2. When the duplex is currently converted to a one unit and they will label to be filed CSM as such prior to recording in the Register of Deeds office
3. The sanitary system servicing the four bedroom on new Lot 2, does need a boring and would have until June 1, 2006 to have this done and bringing the information to the Planning and Zoning Department for review. If it is failing, it will have to be replaced
4. Zoning Permit is required to remove the cabins

**MOTION(Scott Holewinski/Ted Cushing) to approve the preliminary 2-lot subdivision for Ronald Millard, Item #3 on today's agenda, with staff concerns. With all members voting "aye" motion carries.**

Discussion/decision concerning amending Section 9.55 Adult Oriented Business Ordinance within the Oneida County Ordinance and Shoreland Protection Ordinance

Mr. Karl Jennrich, Zoning Director, wanted to clarify for Don Dalponte, owner of Weasels and Attorney Todd Mc Eldowney that at a previous zoning meeting the Planning and Zoning Committee asked staff to develop some type of language to grandfather in existing sexually oriented business establishments. Staff then came back to the Planning and Zoning committee members at a next meeting to discuss 9.50 of the Planning and Zoning ordinance. Mr. Jennrich reads Section 9.50 for the record.

Mr. Jennrich used an example: If Weasels would want to move his establishment over to Hazelhurst, the Planning and Zoning Department would require Mr. Dalponte to get a permit under the new ordinance.

Since Darlins' and Weasels properties are zoned Business 07 and not General Use #10, upon the creation of Section 9.55, there businesses would be considered legal pre-existing and Section 9.50 C, 1 and 2 would apply as follows:

1. No expansion, a legal pre-existing use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became legal pre-existing was only partially devoted to such use
2. Discontinuance. If a legal pre-existing use is discontinued for twelve (12) consecutive Months, any future use of the structure or property shall conform to this ordinance

Since neither Weasels or Darlins' could expand the adult oriented portion of there business, this would mean that Darlins' could not add more area to develop more novelty sales and Weasels could not add additional square footage to accommodate dancers.

Mr. Scott Holewinski, "Is that because we are creating 9.55 that it falls under the new rule?"

Mr. Jennrich, "Yes, because the adult establishment has to be located in General Use."

Mr. Holewinski, "Since there are only two, can't we just exempt them from 9.55 totally?"

Mr. Brian Desmond, "No." "You'll open yourself up for more liability by creating this ordinance making these types of businesses a legal pre-existing use and then saying that they are not pre-existing use and they don't have to abide by those rules." "Anyone else in the County who is a

legal pre-existing use now has a very good reason to sue the County on equal protection grounds saying that the law is not being equally applied."

Mr. Jennrich, "Weasels is a unique situation because he is business, so theoretically, you could expand the business portion for instance pool tables or would like to add food service, the Planning and Zoning department might be able to do that." "But if Mr. Dalponte wants to add on additional square footage to have a couple more areas for additional dancers, I think we would have a problem with that."

Mr. Frank Greb, "I thought we agreed to, when we grand-fathered him in to let him expand 25%."

Mr. Holewinski, "We did, but then Karl brought up the other ordinance (9.50)."

Mr. Jennrich, "Under 9.55 Adult Establishments we did grant Mr. Dalponte 25% expansion, but then at the last meeting I told you that 9.50 kicks in because he is now an adult establishment in a business district, not in general use."

Mr. Holewinski, "Could he expand it more than 25% if he came in to the P & Z Department and asked to expand it 50% and would he have to go through a public hearing or would you just give him the permit?"

Mr. Jennrich, "Yes, depending on the use, yes he may have to get an administrative or conditional use permit, yes."

Attorney Mc Eldowney, "First of all, you folks are the ones that set the policy and you can do whatever you want." "It's interesting that when we were discussing back on January 26, 2006, the ordinance that was in front of us at that time under the establishment definition it actually allowed a legal pre-existing business to increase their floor area by no more than 25%." "We had a big discussion on that and I think Scott you were the one saying 'Well, if he wants to, if he's a pre-existing business and if he wants to increase his business by 50%, why in the world can't he?' "That motion was passed which told me what the intent of folks were, so we went from a position where under 10 E, we were going to allow Don to increase his floor by 25%, we eliminated that so that he could actually increase his floor area by more than 25% and now we have backtracked to the point where he can't increase his floor area at all and it seems to me that that is inconsistent with what the intent was as expressed on January 26, 2006." "And it brings up an interesting situation where the new language which is being proposed now would actually a business that is covered under this ordinance to increase its floor space by 25%, yet Don would not be able to do so at all, even though in 1999 he was able to do so." "But now all of a sudden he can't and it seems to me that that is inconsistent with the intent which was expressed on January 26, 2006 and I frankly don't think that that is going to open you guys up to law suits if you are just to say under the establishment section that you have here that notwithstanding Section 9.50, Don would be able to at least increase his pre-existing business floor area by a certain percentage." "Even the 25% that you have there initially under the ordinance is better than what we are talking about now which is basically that he can't increase it at all." "And it raises some interesting questions." "If he wants to have bands for example, two nights out of the week, and he wants to expand his viewing area so that there is some dancing with the bands, is he not going to do that because three nights out of the week he's also going to have the dancers there?" "It raises some interesting issues."

Brian Desmond, "In our roll as legal advisors you would be opening yourselves up to an equal protection suit by treating this business differently than the other businesses which are already

legal pre-existing uses.” “There would be a substantial liability in doing that.” “I think the Planning and Zoning Committee should take a long hard look at that and think about that if that is actually what you want to do.” “You have the possibility of having those kinds of law suits brought against you because of exempting him completely from the 9.50 ordinance.” “Attorney Mc Eldowney’s client does have the ability to expand, it’s just the adult use that he is not allowed to expand under 9.50.”

Scott Holewinski, “The problem here is that 9.55, when we created it, takes his future expansion away from him, correct?”

Mr. Jennrich, “Correct.”

Mr. Holewinski, “Alright, so we created the ordinance and I think it is the intent of the committee that you, Brian, give us legal opinion but you also work for the County.” “It is also our intent that he has the expansion that he needs to survive business and it is your job to figure out how to write an ordinance so we don’t get into a law suit.” “That is the way I look at it.” “So tell us how to write that in the ordinance and let’s be done with it.”

Mr. Desmond, “I don’t think that it is possible to, given the language of the ordinance that was written was 9.50 in the Shoreland and Protection Zoning Ordinance to do that unfortunately.”

Mr. Jennrich, “The only way to do this is to either get rid of the adult establishment ordinance or you look at-----.”

Mr. Holewinski, “We just created it last week, why would we try to get rid of it?”

Mr. Jennrich, “The other thing is that we made a decision that it was going to be in General Use, you could look at adult establishments in business.” “This is an allowed use in zoned business.”

Mr. Ted Cushing, “Can he apply for a zoning change.”

Patricia Peters, “He’s already business.”

Mr. Ted Cushing, “Can he apply for a simple zoning change that puts him it in the use category that would allow it?”

Mr. Jennrich, “Yes we could, but then we would have to talk to the Town of Three Lakes to see how willing they would rezone Weasels to general use.”

Mr. Dal Ponte, “I’ve talked to my board and they said that they would go along with anything.”

Mr. Jennrich, “Three Lakes has general use, but I’m not sure of how much they have.”

Chair Baier, “I think the easy thing to do is to put him in General Use if the Town of Three Lakes would agree to that.”

Brian Desmond, “With changing him to General Use there may be spot zoning concerns but I haven’t researched that.”

Mr. Mc Eldowney, “He is exempt from the entire 9.55 ordinance.”

Mr. Jennrich, “Yes.”

**MOTION (Ted Cushing/Patricia Peters) to direct staff to seek a possible zoning change from business to general use zoning and if this can not be done, to direct staff to work on language in the ordinance to grand-father Mr. Dalponte's legal pre-existing business. All "aye" on voice vote. Motion carries.**

Mr. Jennrich handed out to the committee draft Ordinance Amendments to Section 9.55 AOB. Brian Desmond reviewed the changes with the committee. EXHIBIT #1

Mr. Jennrich stated to the committee that because this draft is an amendment to Ordinance Amendment 9.55 AOB that additional language would have to be presented to the committee for review and then scheduled for a public hearing. NO ACTION TAKEN

Discussion/decision concerning amendments to Section 9.93 Lot Sizes in Shoreland Areas: Waterway Classification (Charts) within the Oneida County Zoning & Shoreland Protection Ordinance.

Mr. Jennrich alluded to both the committee and Mr. Rein that because of several issues which arose from lots created before and after May 19, 1999 that he recommends eliminating the provision of within the ordinance that treats lots that are zoned the same differently just because the of the time that they were created. If we get rid of the May 19, 1999 lots created prior to, hand in hand, with that discussion we should discuss frontage foot multipliers for the different zoning districts. Lots should all be treated equally and come up with a compromised density rate.

**MOTION (Ted Cushing/Frank Greb) to direct Karl and staff to proceed with the potential elimination of 9.93 and come up with comparable language to deal with the density issue. All "aye" on voice vote. Motion carries.**

Discussion/decision concerning Section 9.27(D) Manufacturing and Industrial; involving transfer stations within the Oneida County Zoning & Shoreland Protection Ordinance.

Mr. Jennrich stated that if he would be working with the lot sizes of shoreland areas he would also like to work with Mr. Rein on transfer stations. "We require 300' of frontage for a transfer facility on a road and is it actually necessary to have a 300' frontage". "It probably should be less then that."

**MOTION (Frank Greb/Ted Cushing) to approve Mr. Jennrich and Mr. Rein to proceed to work on Section 9.27. All "aye" on voice vote. Motion carries.**

Discussion/decision involving amendments to Chapter 13, POWTS Ordinance within Oneida County General Code of Ordinances.

UPDATE: Karl Jennrich sent an email to Roman Kaminski at the WI Department of Commerce and the WI DOC should take a look at the code because we are an agent of the State. Mr. Kaminski took a look at the code and acknowledged on January 23, 2006 with a lot of comments. EXHIBIT #2

Karl Jennrich will try to finish modifications to Chapter 13 Ordinance Revision Draft.

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Discussion/Schedule for Public Hearing/Request by the Town of Crescent for a subdivision moratorium within the Town of Crescent lands for a 180-day duration.

UPDATE: Will get language ready and have a Public Hearing

Departmental operations/activities & status.

On March 14, 2006 Mr. Jennrich will be attending the LRES Committee meeting to discuss and act on the vacant position of Todd Troskey to be filled.

Discussion/decision of line item transfers, refunds, purchase orders and bills.

Mr. Jennrich presented to the committee blanket purchase orders. (EXHIBIT #3) Also presented to the committee was permission for two people to attend the WCCA Spring Conference in Wausau.

**MOTION (Patricia Peters/Frank Greb) to approve both Mr. Jennrich and Mr. Wegner to attend the WCCA Spring Conference in Wausau and the bills as presented. All "aye" on voice vote. Motion carries.**

Discussion/action concerning pending Ordinance Amendment and/or Resolution proposals scheduled for the County Board of Supervisors.

Mr. Jennrich read Ordinance Amendment #27-2006 concerning the overlay districts 9.73 to the committee for the record. Scheduled for County Board on March 21<sup>st</sup>, 2006. Committee signs ordinance.

Communications. Ted Cushing and Gary Baier attended a Wisconsin Towns meeting regarding problems with developing.

Public comments. NONE

Discussion/decision regarding future agenda items. – Both Patricia Peters and Frank Greb excused from the March 15, 2006 Planning & Zoning Committee meeting.

Gary Baier suggested as a committee agenda item to look into working with the County and State regarding gravel pits.

Adjourn.

**3:20 PM** There being no further matters to lawfully come before the Committee, a motion was made by Ted Cushing, second by Frank Greb to adjourn the meeting. With all members present voting "aye", the motion carried.

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Chairman Gary Baier

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Karl Jennrich  
Zoning Director